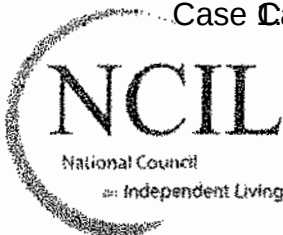


# Exhibit 1

## Parts a-e

# Exhibit 1

## Part a



Public Version

Kelly Buckland  
Executive Director

May 26, 2015

The Honorable Beth Cobert  
Deputy Director for Management  
Office of Management and Budget  
725 17th Street NW  
Washington, DC 20503

Dear Ms. Cobert:

The undersigned members of the National Disability Leadership Alliance (NDLA) urge you to promptly investigate the contracting, administrative and operational activities of the U.S. AbilityOne Commission (Commission) and SourceAmerica (one of the two Central Nonprofit Agencies who administer the program) for fraud, abuse and non-compliance. We believe that the Commission and SourceAmerica have failed to implement the legislative mandate that AbilityOne contractors perform these Federal contracts with a majority workforce of people with severe disabilities. This letter follows two previous letter identifying serious issues in the AbilityOne program; namely, the failure of the AbilityOne Commission to ensure that 75% of the population SourceAmerica contractors employ is the target population of people with /severe disabilities as mandated by the Javits Wagner O'Day Act (JWOD Act 1971) law. (letters attached).

NDLA is the official national cross-disability coalition that represents the authentic voice of people with disabilities. It is led by 15 national member-based advocacy organizations run by people with disabilities, including the National Council on Independent Living, ADAPT, the American Association of People with Disabilities, the American Council of the Blind, National Federation of the Blind, and Little People of America, Autistic Self-Advocacy Network and United Spinal Association, to name a few. As representatives of the primary population the AbilityOne program is to serve, our coalition has a sincere interest in the intent, integrity and continuity of this program, and expertise to evaluate its effectiveness.

Nonprofits awarded contracts under the AbilityOne set aside program are required by law to "...employ blind or other severely disabled individuals for at least 75 percent of the hours of direct labor required for the production or provision of the products or services" to Federal government agencies.

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Furthermore, in order to be counted under that 75% requirement, individuals who are severely disabled must have a physical or mental disability that "constitutes a substantial handicap to employment and is of a nature that prevents the individual from currently engaging in normal competitive employment" (41 U.S.C. 8501-8506). While National Industries for the Blind (NIB), one of the two Central Nonprofit agencies, seems to be implementing the requirement in the approximately 84 contractors they oversee, there is extensive evidence of non-compliance when it comes to the hiring practices of the largest of SourceAmerica's approximately 500 nonprofit contractors.

Although the AbilityOne Program does have a Compliance Department, the demands on this department are too great for adequate monitoring. SourceAmerica and the AbilityOne Commission rely extensively on contractor self-certifications that the contractor's workforce consists of the required seventy-five (75%) ratio of people with severe disabilities in their workforce. This is an honor system with no oversight, it leaves questions about the accountability, credibility and integrity of the AbilityOne Program. And it does not work.

The problem became apparent in 2005 when the U.S. Senate opened an investigation of an El Paso nonprofit AbilityOne contractor, the National Center for Employment of the Disabled (NCED) (now called ReadyOne). At the time, it was the largest SourceAmerica contractor in the AbilityOne Program. NCED self-certified that 78% of its 4,000 AbilityOne workers were severely disabled. After an investigation by outside law enforcement agencies, NCED was found to have less than 8% severely disabled in its workforce. Prior to this investigation, representatives from SourceAmerica and the Commission had visited the nonprofit multiple times and had declared the contractor was in compliance. While managers of NCED are still serving prison time for fraud and embezzlement, the Commission and SourceAmerica's self-certification system, the very system that permitted this level of fraud and abuse in the program, is still in effect, with no repercussions for their lack of responsibility.

There are numerous cases and articles describing the lack of oversight and compliance monitoring by SourceAmerica. We have attached a list of case citations and links to some of these sources. Other advocates allege serious cronyism and bias in the program, particularly directed to members of the SourceAmerica Board of Directors where many members of this board may have a conflict of interest as they receive Federal government contracts because they were chosen by SourceAmerica. In a recent anti-trust lawsuit against SourceAmerica filed in 2014, SourceAmerica's own corporate attorney, Jean Robinson, in recorded conversations, described the SourceAmerica management and board as operating a "cartel that ensures the most lucrative contracts are awarded to their favored children." In fact, many of the CEOs of 20-25 of the largest nonprofit contractors, out of more than 600 approved AbilityOne providers, sit on the SourceAmerica Board of Directors and on its various Committees.



According to Ms. Robinson, the Board uses a variety of schemes to steer the most valuable Federal contracts toward a small group of insiders.

While hundreds of nonprofits seek AbilityOne contracts, 80% of the Federal contracting work, as measured by sales, is performed by the 20% of the contractors. The total sales in AbilityOne contracting on an annual basis is approaching \$3 billion. We believe that concentrating 80% of the work in the hands of the largest contractors makes it virtually impossible to hire the mandated workforce. People with physical or mental conditions so severe that their disability constitutes a substantial handicap to employment and is of a nature that prevents the individuals from currently engaging in standard competitive employment, live in communities all across America; they are not clustered within commuting distance of these 20 large contractors which presents transportation and accessibility challenges. The important question here is who are these large contractors actually hiring?

The people most disenfranchised by cronyism and fraud in this program are individuals with severe disabilities who are not able to perform in a competitive labor market – the very citizens that the program was created for, and intended to serve in 1971. At a time when the majority of the target population of workers with disabilities live in poverty and are in desperate need of employment, it is imperative that this the AbilityOne Federal program, purporting to be “the largest single provider of employment for people who are blind or have significant disabilities,” really serves the target population.

Again, the undersigned members of the National Disability Leadership Alliance (NDLA) urge you to promptly investigate the extent to which the SourceAmerica contractors are actually hiring the mandated population, and to establish an independent Inspector General to perform ongoing oversight of the program.

To move this documented fraud into actionable and measurable progress, we request a meeting to review and discuss a timeline to rectify this unacceptable situation. Kindly let us know your availability and when we can meet.

Thank you for your prompt attention and anticipated action to rectify this situation. We look forward to meeting with you shortly to discuss these concerns in more detail.

If you have any questions or would like further information, please contact me.

Sincerely,

Association of Programs for Rural Independent Living APRIL  
Little People of America LPA  
National Coalition for Mental Health Recovery  
National Council of the Deaf NAD  
National Council on Independent Living NCIL  
National Federation of the Blind NFB  
National Organization of Disabled Nurses  
United Spinal Association

## OTHER SOURCES and REFERENCE CITATIONS

1. Americans with Disabilities: 2010, Household Economic Studies, Author: Matthew W. Brault, Issued July 2012, P70-131, US Census Bureau publication, <http://www.census.gov/prod/2012pubs/p70-131.pdf>

In this report by Matthew W. Brault of the U.S. Census Bureau, "Americans with Disabilities: 2010," Brault compares people with disabilities and people with severe disabilities to non-institutionalized Americans aged 21-65 (working age). His findings show that that 79.1% of those without a disability were employed. Of those reporting a disability, 41.1% were employed. However, of those reporting a severe disability, only 27.5% were employed, thus 72.5% of those reporting a severe disability were unemployed. The AbilityOne program is mandated by law to focus on that 72.5% of people with severe disabilities who are unemployed.

2. GAO Report: Enhanced Oversight of the AbilityOne Program Needed, May 2013, <http://www.gao.gov/assets/660/654946.pdf>

3. Article: Congress Aims to Fix Job Program for Disabled, Oregonian, November 17, 2006, [http://blog.oregonlive.com/oregonianspecial/2006/11/congress\\_aims\\_to\\_fix\\_job\\_prog.html](http://blog.oregonlive.com/oregonianspecial/2006/11/congress_aims_to_fix_job_prog.html)

4. Article: Clackamas outfit sees job disappear under program, [http://blog.oregonlive.com/oregonianspecial/2006/03/clackamas\\_outfit\\_sees\\_job\\_disa.html](http://blog.oregonlive.com/oregonianspecial/2006/03/clackamas_outfit_sees_job_disa.html)

5. Article: Charity Leaders Prosper as "disabled" is redefined, March 5, 2006, [http://blog.oregonlive.com/oregonianspecial/2006/03/clackamas\\_outfit\\_sees\\_job\\_disa.html](http://blog.oregonlive.com/oregonianspecial/2006/03/clackamas_outfit_sees_job_disa.html)

6. Synopsis: Jobs Program Investigation, Series, August 17, 2007, (finalist for a Pulitzer) [http://blog.oregonlive.com/oregonianspecial/2007/08/jobs\\_program\\_investigation\\_1.html](http://blog.oregonlive.com/oregonianspecial/2007/08/jobs_program_investigation_1.html)

7. FBI Press Release: "Bob" Jones, El Paso Corruption Investigation, February 17, 2011, <http://www.fbi.gov/elpaso/press-releases/2011/ep021711.htm>

8. AbilityOne Program: Court Shoots Down "Arbitrary and Capricious" Contract Award, Dec. 2012, <http://smallgovcon.com/statutes-and-regulations/abilityone-program-court-shoots-down-arbitrary-and-capricious-contract-award/>

9. SSA Analysis - Increased Oversight: A Proposal for the AbilityOne Stewardship Committee presented to AbilityOne on November 20, 2013.

One indication of the make-up of a contractor's workforce could be the percentage of people in that workforce who have an independent determination of severe disability that impacts their ability to work. Approximately 62% of the target population of people with severe disabilities are currently receiving Social Security Disability Benefits or Supplemental Security Income (SSDI/SSI) benefits based on work disability (US Census Bureau 2010 Census and Mary Daly and Brian Lucking, Social Security Insurance Growth: Looking Ahead 2013). When NIB surveyed the employees of the 93 NIB contractors, they found 66% of the employees of the AbilityOne contracts were on SSI/SSDI benefits. SourceAmerica has never performed a comparable survey. However, publically available numbers reported by six of SourceAmerica's largest contractors who elected to participate in the Ticket to Work program indicated that not more than 10% of their workforce was drawn from those on the disability rolls.



# Exhibit 1

## Part b

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**Nonprofit Quarterly** | (<http://nonprofitquarterly.org/2015/07/30/indicators-were-there-before-current-investigation-into-disabilities-contractor-sourceamerica-lessons-for-nonprofits/>)

## Indicators Were There before Current Investigation into SourceAmerica: Lessons for Nonprofits

By **RICK COHEN** | July 30, 2015



(<http://145rniymoab3n57zj39in2y1.wpengine.netdna-cdn.com/files/2015/07/Ability-One.jpg>)

It should be no surprise that a CNN report on alleged abuses and corruption in the AbilityOne employment program and in the contracting procedures followed by the nonprofit implementer of AbilityOne, SourceAmerica (<http://www.cnn.com/2015/07/27/us/disabled-work-program-investigation/>), appeared as the nation is celebrating the 25th anniversary of the Americans with Disabilities Act. As the author of the ADA, former senator Tom Harkins (D-IA), said in his final speech from the floor of the Senate, little progress has been made over the past quarter century in the employment of persons with disabilities, with some 60 percent of persons with disabilities who want to work unable to find jobs. It shouldn't be surprising them that earlier this week, hundreds of people marched to Capitol Hill in an ADA rally organized in part by the National Council on Independent Living, some of them holding signs that read "Shame on SourceAmerica," others demanding increased transparency in the AbilityOne program, and still others looking for enhanced program accountability. It isn't difficult to imagine that the vast majority of nonprofits working on AbilityOne contracts are committed to doing right by the law and by the persons with disabilities that they hire for government contracts. But the structure of the AbilityOne program, as revealed both by the CNN report this week and the GAO report from two year ago, is an open invitation to entities that might be motivated to play the game fast and loose.

*"(A)lthough the AbilityOne Commission is ultimately responsible for overseeing the program, the Commission cannot control how [its two 'central nonprofit agency' subcontractors] (1) spend their funds, (2) set and manage their performance goals, or (3) set and implement governance policies and other internal controls. The Commission's authority to direct CNA budget priorities—including how much they compensate their executives and the level and growth of their reserves—is limited...the Commission does not have sufficient authority to set CNA performance and governance standards, so it depends on the CNAs to set and enforce such standards. Although the CNAs have instituted their own internal controls, the Commission does not have procedures to monitor alleged CNA control violations, nor is there an inspector general to provide independent audit and investigative capabilities for the program, including at the CNAs. The AbilityOne Commission is responsible for determining which products and services can be suitably provided by the program. It delegates to the CNAs most of the responsibility for deciding which affiliates should develop and provide these projects. According to CNA and affiliate officials, the CNAs often do not fully disclose how they make these decisions. This limited transparency could increase the risk of biased decisions because CNA officials have wide latitude in determining which affiliate should be awarded a project. Although AbilityOne Commission officials have acknowledged the importance of transparency and equity in assigning projects, they have done little to indicate how these outcomes can be achieved... Occasionally customers and affiliates implement non-conforming price revisions without requesting Commission approval. This negates the Commission's internal controls for ensuring fair market prices and results in the Commission not knowing the actual price being charged. Neither the AbilityOne Commission nor the CNAs have procedures in place to systematically identify such instances."*

In its report, the GAO's findings constitute a template for inadequate controls and almost unavoidable corruption. That devastating GAO report was issued in May of 2013 (<http://www.gao.gov/assets/660/654946.pdf>), more than two years before CNN's crack investigative team headed by Drew Griffin unveiled a report that the AbilityOne work program and one of the two CNAs, SourceAmerica, were "mired in widespread corruption, financial fraud and violations of the law, (<http://www.cnn.com/2015/07/27/us/disabled-work-program-investigation/>)" and under investigation by at least four Inspectors General—from the General Services Administration, the Department of Defense, the Veterans Administration, and the Department of State, apparently being led by the State OIG. Why four? Because as the two-year-old GAO report pointed out, there is no one Inspector General in the federal bureaucracy with clear authority over the AbilityOne program and the two nonprofits that operate the program on behalf of the federal government.

Not surprisingly, with this kind of fall-in-the-cracks oversight that doesn't leave any one federal agency in a position to fully and effectively keep an eye on AbilityOne, the Justice Department has begun its own investigation, and that's the kind of investigation that usually points to more than just the mismanagement findings in an IG's report. However, what it also points to, regardless of whether SourceAmerica has done something wrong or not, is an inadequate, haphazard system of government monitoring and oversight that may be at the root of what CNN has uncovered. More often than not, instances of perceived systemic nonprofit mismanagement have their roots in systemic problems in the government's regulatory due diligence capacities and practices.

Griffin and his CNN colleague Scott Bronstein note that additional areas of investigation in the AbilityOne/SourceAmerica imbroglio include "steering of contracts and possibly obstruction of justice." Sources told Griffin and Bronstein that "the program is among the worst cases of its type they've ever seen in a federal agency."

The investigations suggest, according to CNN, that "as many as half the companies contracting with SourceAmerica under AbilityOne may be operating in violation of the law, without enough severely disabled employees." That is a charge that has come up before in other situations with the AbilityOne program, though, like the CNN report, they are allegations of wrongdoing, not legal decisions conclusively finding illegal behavior.

Earlier this year, for example, a SourceAmerica counsel was fired when she was secretly recorded acknowledging bid-rigging (<http://hamptonroads.com/2015/04/lawyer-nonprofit-firm-rigged-bids-jobs-disabled>) for a \$15 million contract for cleaning and maintaining the Portsmouth Naval Medical Center in favor of nonprofits that had close relationships with SourceAmerica board and staff members; on the recording, she referred to the preferred companies as the "favored children," the "club" and the "mafia." Responding to *Virginian-Pilot's* reporter Scott Daugherty, a SourceAmerica spokeswoman declined to comment on any of the allegations against the AbilityOne CNA or even on the GAO report's call for improved government oversight.

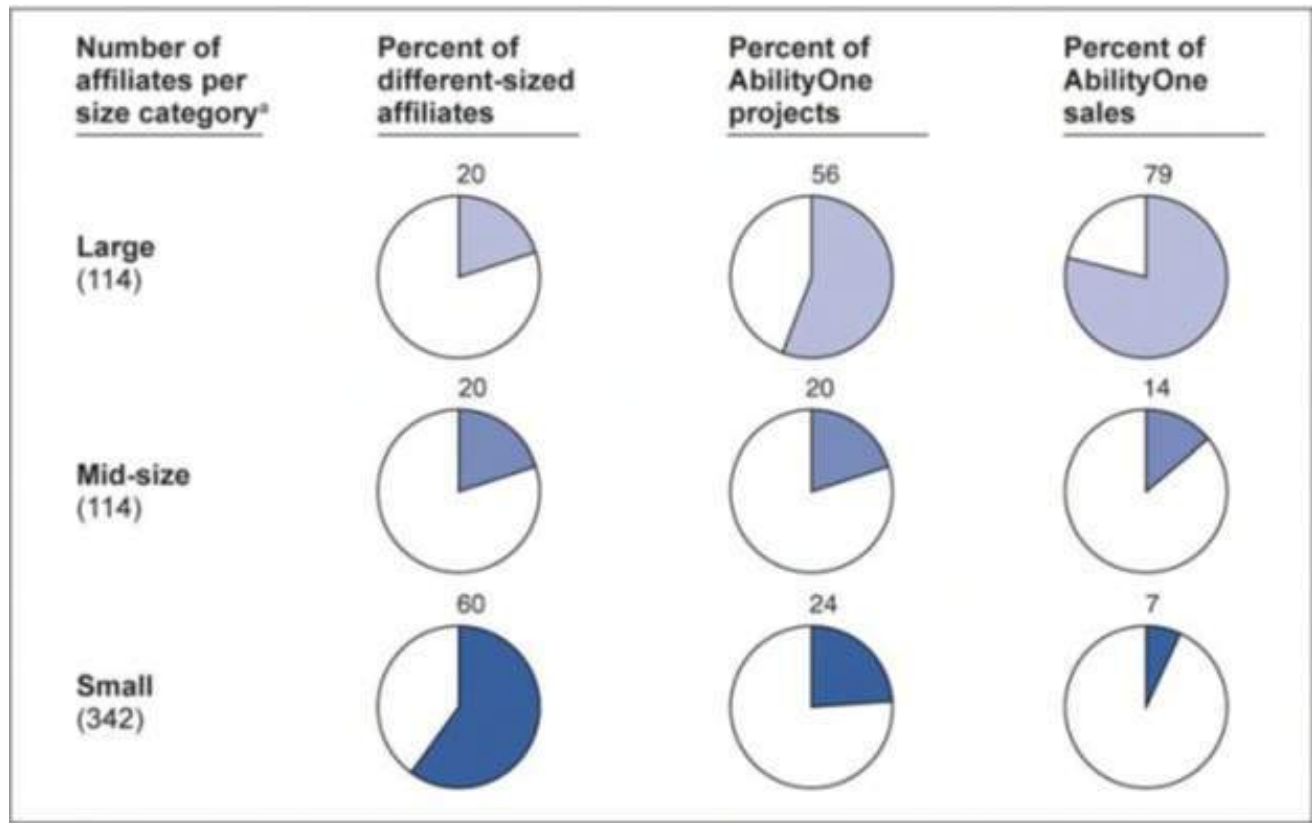
Without ruling on the specific complaints of the nonprofits complaining about the Portsmouth situation, the judge hearing their legal arguments noted that having SourceAmerica affiliates serve on the organization's board was like having "the fox tending the henhouse." He added, according to the *Virginian-Pilot* article, that "from what I've heard thus far over the last two and a half years, I have great suspicion that SourceAmerica...has had individuals on the board who have acted inappropriately." That tracks one of the

Despite the titillating news language about widespread corruption, there are important issues within the CNN report that relate to nonprofit interactions with government more broadly—and may be at the heart of some of what Griffin and Bronstein found:

**Large contractors:** CNN cites someone named Rich Beutel, identified as a “former congressional investigator...who now lobbies for companies in the industry,” who alleges that 10 large companies are getting the bulk of the SourceAmerica contracts. He suggests that these entities are very influential within SourceAmerica and connected to SourceAmerica’s top leadership. That may be true, given the growth of AbilityOne into a \$3 billion operation. When programs scale up and administrating agencies look to established contractors for performance, it makes it very tough for smaller bidders to compete—and that’s exactly what the GAO found in 2013:

*“Program officials from all levels, as well as some of the affiliates themselves, told us that small and mid-size affiliates may struggle to compete for AbilityOne projects for a variety of reasons. For example, they told us that small affiliates cannot devote as many resources to business development or may only have the capacity to compete for projects in their local area. Affiliates also said that CNAs may not select them because of a perceived lack of work experience in a new line of business...AbilityOne and CNA officials told us that while they try to give opportunities to smaller, less experienced firms, opportunities for smaller affiliates may be reduced when other factors are taken into account, such as a federal customer’s preference for a larger, more experienced contractor.”*

The GAO report gave the numbers: the largest nonprofit affiliates participating in the AbilityOne program constituted 20 percent of all of the affiliates but got 56 percent of AbilityOne projects accounting for 79 percent of AbilityOne sales.



Source: GAO analysis of AbilityOne data.  
 (http://145rniymoab3n57zj39in2y1.wpengine.netdna-cdn.com/files/2015/07/GAO-Ability-One-data.jpg)

If government is going to give a break to smaller organizations, the effort must be intentional, else, like much of government activity, scale begets scale. While it doesn’t look good to see entities that are represented on the SourceAmerica board or have other relationships with SourceAmerica leaders scarf up the lion’s share of contracts, government has to take the lead in making sure that smaller entities are given a boost in the competitive process. Given the explicit analysis in the GAO report on the challenges facing smaller organizations competing for AbilityOne contracts, that boost hasn’t happened.



SourceAmerica, which has been on the House Committee on Oversight and Government Reform for more than four years, and worked with other congressional committees going back to 2005, including the Small Business Committee. The GAO report in 2013 was actually sent to Darrell Issa as the then chairman of the committee and Rep. Elijah Cummings (D-MD) as ranking member with explicit recommendations regarding giving smaller nonprofits help with competing against the behemoths, improving government oversight of the AbilityOne Commission and the CNAs (at that time, SourceAmerica was called "NISH"), and much more that seems to be specifically relevant to the issues that CNN has reported on. The report called on Congress to establish an IG with the authority to conduct audits on AbilityOne and its nonprofit contractors and called on the AbilityOne Commission to undertake specific actions regarding program accountability.

Public Version

The missing part of the CNN investigation is a look at the congressional torpor that, despite being armed with a GAO report, ended up with no congressional action to take steps to increase program and contractor accountability. CNN described the AbilityOne Commission as presidential appointees who function as a "rubber stamp" for all SourceAmerica's recommended contracts. As we have often seen, too many government commissions are less than bastions of hard work and energy. CNN should be digging into why the oversight of AbilityOne from Congress has led to a situation of numerous allegations, a four-IG investigation, and an inquiry from the Justice Department. The implication of the CNN findings is that the AbilityOne program relies on self-regulation from SourceAmerica regarding the 75 percent disabled employment threshold compliance of the nonprofits it places into government agency contracts. That's consistent with the GAO finding, as is the observation that there is no penalty to contractors for falling out of compliance. The fixes are obvious. The congressional response to the GAO report is obvious too—pretty inadequate.

Board structure: There are people serving on the SourceAmerica board who are senior executives with some of the organization's prime nonprofit subcontractors, including the Arc, Goodwill Industries, and United Cerebral Palsy, just to name a few. Do these board members funnel contracts to their own organizations? SourceAmerica said no, in a statement it gave CNN: "No one involved in making award recommendations to the commission is employed by an organization seeking those contracts," read the statement sent to CNN. "We want to be very clear, SourceAmerica board members are not involved in the evaluation of contract bids or recommendations to the AbilityOne Commission." While there is no reason to disbelieve a contention that such board members recuse themselves from such decisions, it's hardly like the rest of the board doesn't realize who their board colleagues are. When the beneficiaries of a nonprofit organization serve on the group's board of directors, recusal or not, it doesn't look good to IGs and the public.

In light of the sub-contracting questions contained in the recent Red Cross scandal, this appears to be a time when nonprofit contractors to government should look to closing any laxity in their own processes. At the same time, government programs structured to deliver inadequate oversight, potentially abetting subcontracting problems such as those reported by CNN about AbilityOne and SourceAmerica, are also at fault—as are the Congressional oversight committees that receive detailed GAO reports outlining the problems but take minimal or no corrective actions.





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